

ADVISORY NOTICE

APPROVED REGULATIONS REGARDING: REACTIVATION OF EXPIRED GAMBLING LICENSES; SURRENDER; ABANDONMENT (CGCC-GCA-2010-01-R)

On December 7, 2010, the Office of Administrative Law approved regulations that address the surrender and abandonment of state gambling licenses, and the limited reactivation of expired or surrendered gambling licenses. These regulations were filed with the Secretary of State on December 7, 2010, and will become effective January 6, 2011.

The regulation makes key changes that are of interest to current licensees, including:

- Creating a potential consequence for applications submitted after the statutory deadline; and
- Providing a process for the surrender of a state gambling license

In addition, this regulation also provides a mechanism to reinstate state gambling licenses that were previously surrendered or had expired without being renewed, subject to specified conditions.

Late Submittal of Renewal Applications [Sections 12345(g) and 12345(h)]: If a licensee fails to submit a complete renewal application at least 120 days in advance of the date of expiration, and consequently, the Bureau of Gambling Control (Bureau) and the Commission cannot complete their review and approval of the application prior to the expiration date, the licensee must cease gambling operations as of the expiration date of the license. *Gambling operations may not resume until the Commission approves the renewal of the license.*

This regulation will not apply to those licensees who submit their renewal applications at least 120 days in advance of the license expiration. In such cases, if Bureau staff cannot complete their review of the application, the Commission will continue to extend the license for the period of time the Bureau estimates will be required to complete the investigation.

If a renewal application has not been received within **10 days after the expiration date** of the current license, the license will be deemed abandoned. The consequences of an abandoned license are the same as those for surrendering a license, and are detailed below.

Surrender of a State Gambling License [Sections 12002(j), 12347(a) and 12347(b)]: The regulation sets up a process by which an owner-licensee may surrender his or her gambling license. A surrender must be requested in writing, and the matter considered before the full Commission at a properly-noticed, public hearing. A proposed surrender must be approved by the Commission in order to be effective. The Commission may reject a surrender if the surrender is not considered to be “in the public interest,” which will be determined on a case-by-case basis, on the merits of each individual request.

Once surrendered or abandoned, the license cannot be reactivated or used to operate any gambling establishment in California. In addition, under the moratorium provision of the Gambling Control Act, any gambling establishment whose owner surrenders or abandons the license cannot be reopened, either by the previous license holder or any new claimant to the license.

Reactivation of Expired Gambling Licenses [Sections 12347 and 12348]: In order to lay to rest the status of gambling establishments whose owners were licensed as of December 31, 1999, or had an application on file prior to September 1, 2000, but have since ceased gambling operations, the recently adopted regulation includes a provision that allows a prior holder of a state gambling license who surrendered the license or allowed it to expire without being renewed a limited opportunity to reactivate that license.

In order for a reactivation to be eligible for consideration before the Commission, the prior license holder must notify the Commission in writing of the intent to apply within 30 days of the effective date of the regulation (notifications must be postmarked by February 5, 2011). If this deadline is not met, the license will be considered surrendered and subject to the same consequences as described above.

After the Commission has received notification of the intent to apply to reactivate the license, the applicant must submit all required forms, fees, and documents to the Commission before January 31, 2012. In addition to the forms and deposits required for an initial application for a state gambling license, an applicant to reinstate the license must submit the following additional documentation:

- A copy of the last license issued;
- A written document addressing the circumstances under which the previous license was surrendered, abandoned, or allowed to expire without being renewed, and the applicant's prior efforts, if any, to have the license renewed;
- A copy of the current applicable local gambling ordinance and an opinion from the chief legal counsel of the local jurisdiction, certifying that the reopening of the gambling establishment is authorized by local ordinance;
- Proof from the local governing body (e.g. city council or county board of supervisors) and the chief law enforcement officer of the local jurisdiction (e.g., the Chief of Police or County Sheriff) affirming support for the gambling establishment's reopening; and
- An economic feasibility study that demonstrates that the proposed gambling establishment will be economically viable, and that the owners have sufficient resources to enable them to comply with all laws and regulations.

The regulation also provides the specific factors the Commission must consider when determining whether to approve the application to reactivate the license, which include:

- Generally, whether the issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust in gambling operations;

- The circumstances under which the previous license was surrendered or allowed to expire without being renewed, including (A) any extenuating circumstances; (B) whether the surrender may have been an attempt to avoid adverse action against the license; (C) whether the surrender was voluntary; and (D) any prior efforts by the applicant to have the license renewed or reinstated;
- Any changes in the legal status or composition of the previously-licensed entity;
- The potential effect a reopened gambling establishment may have on the incidence of problem gambling;
- The potential impact a reopened gambling establishment may have on the local economy, including revenues to the local jurisdiction and the number of jobs that may be created; and
- The economic impact on existing gambling establishments within a 20-mile radius of the proposed location for the reopened establishment.

If the holder of a previously issued license fails to meet this January 31, 2012, deadline, the license will be deemed surrendered, and subjected to the same consequences as described above.

Regulation Text

A copy of the recently approved regulations is attached, or may be obtained from the Commission's website at www.cgcc.ca.gov under "Laws and Regs."

Questions, Concerns, Suggestions

For any questions, concerns, or suggestions, please contact James Allen, Regulatory Actions Manager, at (916) 263-4024.